

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DAVID A. HOSKINS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	1:12CV1087
)	
NORTH CAROLINA)	
DEPARTMENT OF PUBLIC)	
SAFETY, et al.,)	
)	
Defendant(s).)	

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiffs, four prisoners of the State of North Carolina, have submitted a civil rights action pursuant to 42 U.S.C. § 1983, together with an application to proceed *in forma pauperis*. The form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problems are:

1. There are four Plaintiffs listed on the Complaint, which is labeled as a “Class Action.” *Pro se* inmates cannot file a class action or attempt to represent fellow plaintiffs in a class action unassisted by counsel. See Oxendine v. Williams, 509 F.2d 1405, 1407 (4th Cir. 1975). Any prisoner wishing to file a *pro se* lawsuit based on the allegations in the Complaint must do so separately.
2. Each Plaintiff must provide a proper affidavit to proceed *in forma pauperis*, with sufficient information completed and signed for review. In this case, Plaintiffs did submit a joint *in forma pauperis* form. However, it attempts to include all four Plaintiffs together and does not set out the deposits into each Plaintiff’s prison trust account for the past six months.

3. Plaintiffs list several Defendants, but do not make allegations as to each Defendant in the Complaint. In order to list a person as a Defendant, Plaintiffs must allege that the person violated their federal rights, with supporting facts.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiffs individually filing new complaints, on the proper § 1983 forms, which correct the defects of the present Complaint. To further aid Plaintiffs, the Clerk is instructed to send each Plaintiff new § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send each Plaintiff § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiffs individually filing new complaints, on the proper § 1983 forms, which correct the defects cited above.

This, the 7th day of June, 2013.

/s/ Joi Elizabeth Peake
United States Magistrate Judge